



Senate

General Assembly

File No. 399

February Session, 2004

Substitute Senate Bill No. 392

Senate, April 1, 2004

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE STATE CONTRACT REVIEW PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 2 to 8,
2 inclusive, of this act:

3 (1) "State agency" means an executive office, department, division,
4 board, commission or other office or officer in the executive branch of
5 state government but does not mean The University of Connecticut or
6 any quasi-public agency;

7 (2) "Privatization contract" means an agreement or series of
8 agreements between a state agency and a nongovernmental person or
9 entity, in which such person or entity agrees to provide services valued
10 at five hundred thousand dollars or more over the life of the contract
11 that are substantially similar to and in lieu of services provided, in
12 whole or in part, by employees of such agency or by employees of

13 another state agency for such state agency. "Privatization contract"
14 does not include an agreement to provide legal services, litigation
15 support or management consulting only;

16 (3) "State construction" and "large procurement contracts" means
17 any contract or amendment in excess of five hundred thousand dollars
18 for: (A) The remodeling, alteration, repair or enlargement of any real
19 asset; (B) the construction, alteration, reconstruction, improvement,
20 relocation, widening or changing of the grade of sections of state
21 highways or bridges; or (C) the purchase or lease of all supplies,
22 materials or equipment, as defined in subdivision (2) of section 4a-50
23 of the general statutes; and

24 (4) "Board" means the State Properties Review Board, as established
25 in section 4b-3 of the general statutes, as amended.

26 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) The State Properties
27 Review Board may, within available appropriations, retain the services
28 of consultants, technical assistants, research and other personnel as it
29 may deem necessary to assist in conducting any review pursuant to
30 section 3 of this act.

31 (b) On or before June 30, 2005, the State Properties Review Board
32 shall adopt regulations, in accordance with chapter 54 of the general
33 statutes, for the implementation of this section, including, but not
34 limited to, criteria to be used in conducting any review pursuant to
35 subsection (a) of section 3 of this act.

36 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Notwithstanding any
37 other provision of the general statutes, all state agencies shall submit
38 any proposed privatization, state construction or large procurement
39 contract to the State Properties Review Board for the board's review
40 and approval or disapproval, in accordance with the provisions of
41 section 2 of this act. The State Properties Review Board shall review all
42 proposed state construction or large procurement contracts to
43 determine the legal sufficiency of such contracts both as to substance
44 and to form and to ensure that the process for the selection of the

45 vendor or construction contractor complied with state law and that
46 such contract is cost-effective and fiscally prudent. The State Properties
47 Review Board shall also review and approve or disapprove all
48 privatization contracts in accordance with the provisions of sections 4
49 to 8, inclusive, of this act. Any contract subject to review pursuant to
50 this section shall be void unless approved by the State Properties
51 Review Board. Nothing in this section shall be construed to require the
52 review of any contract for independent audit services of any agency.

53 (b) In conducting any review pursuant to subsection (a) of this
54 section, the State Properties Review Board shall have access to all
55 information, files and records, including, but not limited, to financial
56 records, of the applicable state agency, and shall, when necessary, be
57 entitled to the use of personnel employed by the state agency. Each
58 state agency shall keep such information, files and records in a form
59 and by a method that will reasonably enable the board to conduct its
60 review. Each state agency shall make such information, files and
61 records available to the board or any authorized agent of the board,
62 upon demand. In the event that any such information, file or record
63 sought by the board is subject to nondisclosure pursuant to any
64 provision of the general statutes, such nondisclosure requirement and
65 any accompanying penalty for disclosure shall apply to members of
66 the board and the board's authorized agents.

67 (c) Within thirty days of a state agency's submittal of a proposed
68 privatization, state construction or large procurement contract, to the
69 State Properties Review Board for review, the board shall respond in
70 writing to such agency, either approving the contract or disapproving
71 the contract without prejudice. In the event of a tie vote of the board's
72 members, the proposed contract shall be deemed disapproved. In any
73 case where the board issues a written response disapproving a
74 proposed contract, such response shall include the grounds for
75 disapproval. If, upon expiration of such thirty-day period a decision
76 has not been made by the board, such contract shall be deemed to have
77 been approved.

78 Sec. 4. (NEW) (*Effective October 1, 2004*) (a) No state agency shall
79 execute a proposed privatization contract and no such contract shall be
80 valid unless such contract is approved by the State Properties Review
81 Board and such agency has complied with the provisions of section 6
82 of this act.

83 (b) Prior to any state agency's solicitation of bids for a privatization
84 contract, such agency shall prepare an analysis of the costs and
85 benefits to the agency of (1) privatizing services, and (2) continuing to
86 provide such services using state employees of the state agency. Such
87 analysis shall include, but not be limited to: (A) An examination of all
88 direct and indirect costs to the state, including health insurance,
89 pension costs of state employees, unemployment compensation costs
90 of state employees terminated as a result of the privatization contract,
91 gain or loss of income tax and sales tax revenue to the state, and (B) an
92 examination of the effect of such proposed privatization on the quality
93 of service, the public health and safety and residents of the state who
94 may utilize such privatized service. In determining the cost of
95 privatizing services, pursuant to this subsection, the state agency shall
96 calculate labor costs for each employee position at a rate no less than
97 the middle range salary of a state employee job class substantially
98 similar to such employee position. Additionally, the state agency shall
99 include in such cost analysis any costs or penalties the state may incur
100 if such contract is terminated by the state prior to the termination date
101 contained in such contract. Each state agency shall transmit such
102 analysis to the Auditors of Public Accounts who shall review such
103 submission and prepare a report to the state agency with an analysis
104 stating whether such privatization contract is cost-effective, taking into
105 consideration all direct and indirect costs to the state and the impact of
106 such privatization contract on the public health and safety and the
107 residents of Connecticut who use the services that are the subject of the
108 privatization contract. Any privatization contract approved pursuant
109 to the provisions of this section shall be subject to an annual
110 performance audit performed by the Auditors of Public Accounts.

111 Sec. 5. (NEW) (*Effective October 1, 2004*) At least sixty days prior to

112 publishing any notice soliciting bids for a privatization contract, a state
113 agency shall notify each collective bargaining organization
114 representing employees of the agency of such planned solicitation.
115 After consulting with the potentially affected bargaining units, if any,
116 the agency shall provide adequate resources for the purpose of
117 encouraging and assisting present agency employees to organize and
118 submit a bid to provide the services that are the subject of the
119 privatization contract. In determining what resources are adequate for
120 this purpose, the agency shall refer to an existing collective bargaining
121 agreement of a similar employee organization whose members
122 perform the subject services, if available, which agreement provides
123 similar resources in the same or other agencies. If no such collective
124 bargaining agreement exists, the agency shall refer to any existing
125 collective bargaining agreements providing such resources, and shall
126 provide such resources at the minimum level of assistance provided in
127 such agreements. The state agency shall also provide to the state
128 employees its analysis and the report of the Auditors of Public
129 Accounts prepared in accordance with subsection (b) of section 4 of
130 this act. The agency shall consider any such employee bid on the same
131 basis as all other bids. An employee bid may be made as a joint
132 venture with other persons.

133 Sec. 6. (NEW) (*Effective October 1, 2004*) The state agency soliciting
134 bids for a privatization contract shall require the bidders to include the
135 following information in their bid submission:

136 (1) The wage rate for each employee covered by the privatization
137 contract;

138 (2) An agreement by the bidder or contractor to offer available
139 employee positions pursuant to the contract to qualified regular
140 employees of the state agency whose state employment is terminated
141 because of the privatization contract and who satisfy the hiring criteria
142 of the contractor;

143 (3) An agreement by the bidder or the contractor to refrain from
144 engaging in discriminatory employment practices, as defined in

145 section 46a-51 of the general statutes, and to take affirmative steps to
146 provide such equal opportunity for all such persons;

147 (4) A report on the length of continuous employment of current
148 employees of the contractor by job classification, without providing
149 individually identifiable information on such employees and
150 information detailing the relevant prior experience of current
151 employees within each job classification. If the positions identified by
152 the bidder are newly created positions, the bid shall identify the
153 minimum requirements for prospective applicants for each such
154 position;

155 (5) The annual rate of employee turnover;

156 (6) The number of hours of training planned for each employee in
157 areas directly related to the provision of services to state residents and
158 clients;

159 (7) Any legal or administrative proceedings pending or concluded
160 adversely against the applicant or any of the applicant's principals or
161 key personnel within the past five years that relate to the procurement
162 or performance of any public or private construction contract,
163 employee safety and health, labor relations or other employment
164 requirements and whether the applicant is aware of any investigation
165 pending against the applicant or any principal or key personnel. Such
166 information shall specify the date of the complaint, citation, court
167 finding or administrative finding, the enforcement agency, rule, law or
168 regulation involved and any additional information the contractor
169 elects to submit;

170 (8) Any collective bargaining agreements or personnel policies
171 covering the employees that will provide services to the state; and

172 (9) Any political contributions made by the bidder or any employee
173 who holds a management position with the bidding company, to any
174 elected officer of the state or member of the General Assembly during
175 the four years prior to the due date of the bid.

176 Sec. 7. (NEW) (*Effective October 1, 2004*) (a) Any state agency
177 selecting a bidder for a privatization contract shall develop a contract
178 that is acceptable to the bidder and the state agency provided such
179 contract shall include the following terms:

180 (1) The contractor shall be required to submit quarterly payroll
181 records to the agency, listing the name, address, hours worked and
182 hourly wage paid for each employee who is providing work under the
183 privatization contract in the previous quarter;

184 (2) The contractor shall be required to offer available employee
185 positions pursuant to the contract to qualified regular employees of the
186 agency whose state employment is terminated because of the
187 privatization contract and who satisfy the hiring criteria of the
188 contractor;

189 (3) The contractor shall be prohibited from engaging in
190 discriminatory employment practices, as defined in section 46a-51 of
191 the general statutes, and shall take affirmative steps to provide such
192 equal opportunity for all such persons; and

193 (4) The contractor shall be required to submit to an annual
194 performance audit of such contract by the Auditors of Public Accounts.

195 (b) Prior to signing such contract, the state agency shall submit such
196 contract to the State Properties Review Board for its review and
197 approval or disapproval. Concomitantly, the state agency shall submit
198 to the board the following information:

199 (1) A certification that the state agency has complied with all the
200 requirements of the state agency contained in the provisions of
201 sections 2 to 6, inclusive, of this act;

202 (2) The state agency analysis and the report of the Auditors of
203 Public Accounts prepared in accordance with section 4 of this act and a
204 report by the state agency explaining any changes in such analysis and
205 report as a result of the terms of the proposed privatization contract;

206 (3) A state agency analysis of the quality of the services to be
207 provided by the designated bidder and whether such services are
208 equal to or exceed the quality of services that are provided by regular
209 agency employees;

210 (4) A certification by the designated bidder that the bidder and its
211 supervisory employees, while in the employ of the designated bidder,
212 have no adjudicated record of repeated wilful noncompliance with any
213 relevant federal or state regulatory law including, but not limited to,
214 laws concerning labor relations, occupational safety and health,
215 nondiscrimination and affirmative action, environmental protection
216 and conflicts of interest; and

217 (5) A description of why the proposed privatization contract is in
218 the public interest.

219 (c) The State Properties Review Board shall have the authority
220 granted to it pursuant to section 3 of this act for purposes of reviewing
221 and evaluating the privatization contract and approving or
222 disapproving the contract. In addition to conducting its review in
223 accordance with the provisions of section 3 of this act, the board shall
224 also review the proposed privatization contract to determine the legal
225 sufficiency of such contract both as to substance and to form and to
226 ensure that the process for the selection of the bidder complied with
227 state law and that such contract is cost-effective and fiscally prudent.

228 Sec. 8. (NEW) (*Effective October 1, 2004*) (a) If the State Properties
229 Review Board approves such privatization contract and such
230 privatization contract has a value of five million dollars or more over
231 the life of the contract, such contract shall not be valid unless approved
232 by the joint standing committees of the General Assembly having
233 cognizance of matters relating to government administration and
234 elections and appropriations in accordance with this section. The state
235 agency shall, within five days of receipt of notice of approval by the
236 State Contract Review Board, file such contract with the clerks of the
237 House of Representatives and the Senate.

238 (b) Not later than five days after the clerks receive such contract, the
239 speaker of the House of Representatives and the president pro tempore
240 of the Senate shall submit the contract to the joint standing committees
241 of the General Assembly having cognizance of matters relating to
242 government administration and appropriations.

243 (c) Within twenty-five days after the speaker of the House of
244 Representatives and the president pro tempore of the Senate receive
245 such contract, said committees shall hold a joint public hearing on the
246 contract and shall, by a majority of a joint vote of said committees,
247 approve or disapprove such contract in whole. If disapproved, the
248 contract shall not be valid and shall not be implemented.

249 Sec. 9. Section 3-125 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective October 1, 2004*):

251 The Attorney General shall appoint a deputy, who shall be sworn to
252 the faithful discharge of his duties and shall perform all the duties of
253 the Attorney General in case of his sickness or absence. He shall
254 appoint such other assistants as he deems necessary, subject to the
255 approval of the Governor. The Attorney General may also appoint not
256 more than four associate attorneys general who will serve at the
257 pleasure of the Attorney General and will be exempt from the
258 classified service. The Attorney General shall have general supervision
259 over all legal matters in which the state is an interested party, except
260 those legal matters over which prosecuting officers have direction. He
261 shall appear for the state, the Governor, the Lieutenant Governor, the
262 Secretary, the Treasurer and the Comptroller, and for all heads of
263 departments and state boards, commissioners, agents, inspectors,
264 committees, auditors, chemists, directors, harbor masters, and
265 institutions and for the State Librarian in all suits and other civil
266 proceedings, except upon criminal recognizances and bail bonds, in
267 which the state is a party or is interested, or in which the official acts
268 and doings of said officers are called in question, and for all members
269 of the state House of Representatives and the state Senate in all suits
270 and other civil proceedings brought against them involving their

271 official acts and doings in the discharge of their duties as legislators, in
272 any court or other tribunal, as the duties of his office require; and all
273 such suits shall be conducted by him or under his direction. When any
274 measure affecting the State Treasury is pending before any committee
275 of the General Assembly, such committee shall give him reasonable
276 notice of the pendency of such measure, and he shall appear and take
277 such action as he deems to be for the best interests of the state, and he
278 shall represent the public interest in the protection of any gifts, legacies
279 or devises intended for public or charitable purposes. All legal services
280 required by such officers and boards in matters relating to their official
281 duties shall be performed by the Attorney General or under his
282 direction. All writs, summonses or other processes served upon such
283 officers and legislators shall, forthwith, be transmitted by them to the
284 Attorney General. All suits or other proceedings by such officers shall
285 be brought by the Attorney General or under his direction. He shall,
286 when required by either house of the General Assembly or when
287 requested by the president pro tempore of the Senate, the speaker of
288 the House of Representatives, or the majority leader or the minority
289 leader of the Senate or House of Representatives, give his opinion
290 upon questions of law submitted to him by either of said houses or any
291 of said leaders. He shall advise or give his opinion to the head of any
292 executive department or any state board or commission upon any
293 question of law submitted to him. He may procure such assistance as
294 he may require. Whenever a trustee, under the provisions of any
295 charitable trust described in section 45a-514, is required by statute to
296 give a bond for the performance of his duties as trustee, the Attorney
297 General may cause a petition to be lodged with the probate court of the
298 district in which such trust property is situated, or where any of the
299 trustees reside, for the fixing, accepting and approving of a bond to the
300 state, conditioned for the proper discharge of the duties of such trust,
301 which bond shall be filed in the office of such probate court. The
302 Attorney General shall prepare a topical and chronological cross-index
303 of all legal opinions issued by the office of the Attorney General and
304 shall, from time to time, update the same. Nothing in this section shall
305 be construed to require the Attorney General to determine the legal

306 sufficiency either as to substance or as to form of any proposed state
307 construction, large procurement or privatization contract, as defined in
308 section 1 of this act.

309 Sec. 10. Subsection (e) of section 4a-59 of the general statutes is
310 repealed and the following is substituted in lieu thereof (*Effective*
311 *October 1, 2004*):

312 (e) Each bid or proposal, with the name of the bidder, or proposer,
313 shall be entered on a record, and each record, with the successful bid
314 or proposal indicated thereon, shall, after the award of the order or
315 contract, be open to public inspection. All large procurement, state
316 construction and privatization contracts, as defined in section 1 of this
317 act, shall be approved as to form by the State Properties Review Board
318 and any other contracts shall be approved as to form by the Attorney
319 General and a copy of each contract shall be filed with the
320 Comptroller.

321 Sec. 11. Subsection (a) of section 4b-1 of the general statutes is
322 repealed and the following is substituted in lieu thereof (*Effective from*
323 *passage*):

324 (a) The Commissioner of Public Works shall (1) be responsible for
325 the administrative functions of construction and planning of all capital
326 improvements undertaken by the state, except (A) highway and bridge
327 construction, the construction and planning of capital improvements
328 related to mass transit, marine and aviation transportation, (B) the
329 Connecticut Marketing Authority, (C) planning and construction of
330 capital improvements to the State Capitol building or the Legislative
331 Office Building and related facilities by the Joint Committee on
332 Legislative Management, (D) any project as defined in subdivision (16)
333 of section 10a-109c, undertaken by The University of Connecticut and
334 (E) construction and planning of capital improvements related to the
335 Judicial Department if such construction and planning do not
336 constitute a project within the meaning of subsection (g) of section 4b-
337 55, as amended by this act, including the preparation of preliminary
338 plans, estimates of cost, development of designs, working plans and

339 specifications, award of contracts and supervision and inspection. For
340 the purposes of this subparagraph (E), the term "Judicial Department"
341 does not include the courts of probate, the Division of Criminal Justice
342 and the Public Defender Services Commission, except where such
343 agencies share facilities in state-maintained courts; (2) select consultant
344 firms in accordance with the provisions of sections 4b-56 to 4b-59,
345 inclusive, as amended by this act, to assist in the development of plans
346 and specifications when in the commissioner's judgment such
347 assistance is desirable; (3) render technical advice and service to all
348 state agencies in the preparation and correlation of plans for necessary
349 improvement of their physical plants; (4) cooperate with those charged
350 with fiscal programming and budget formulation in the development
351 of a capital program and a capital budget for the state; (5) be
352 responsible for the purchase, lease, sublease, sale and acquisition of
353 property and space to house state agencies and, subject to the
354 provisions of section 4b-21, the sale or exchange of any land or interest
355 in land belonging to the state; (6) maintain a complete and current
356 inventory of all state-owned or leased property and premises,
357 including space-utilization data; (7) supervise the care and control of
358 buildings and grounds owned or leased by the state in Hartford,
359 except the building and grounds of the State Capitol and the
360 Legislative Office Building and parking garage and related structures
361 and facilities and grounds, as provided in section 2-71h, and the
362 Connecticut Marketing Authority and property under the supervision
363 of the Office of the Chief Court Administrator under the terms of
364 section 4b-11; and (8) be responsible for the administrative functions of
365 establishing and maintaining security standards for all facilities
366 housing the offices and equipment of the state except (A) Department
367 of Transportation mass transit, marine and aviation facilities, (B) the
368 State Capitol and the Legislative Office Building and related facilities,
369 (C) facilities under the care and control of The University of
370 Connecticut or other constituent units of the state system of higher
371 education, (D) Judicial Department facilities, (E) Department of Public
372 Safety facilities, (F) Military Department facilities, (G) Department of
373 Correction facilities, (H) Department of Children and Families client-

374 occupied facilities, (I) facilities occupied by the Governor, Lieutenant
375 Governor, Attorney General, Comptroller, Secretary of the State and
376 Treasurer, and (J) facilities occupied by the Board of Parole. As used in
377 this subdivision, "security" has the meaning assigned to it in section
378 4b-130. Subject to the provisions of chapter 67, said commissioner may
379 appoint such employees as are necessary for carrying out the duties
380 prescribed to said commissioner by the general statutes.

381 Sec. 12. Subsection (c) of section 4b-3 of the general statutes, as
382 amended by section 146 of public act 03-6 of the June 30 special
383 session, is repealed and the following is substituted in lieu thereof
384 (*Effective from passage*):

385 (c) The board may adopt such rules as it deems necessary for the
386 conduct of its internal affairs, in accordance with section 4-167, and
387 may employ an executive director, a real estate appraiser, an
388 administrative assistant, a secretary, a clerk, and within its budget,
389 such employees as it shall deem necessary.

390 Sec. 13. Subsection (f) of section 4b-3 of the general statutes, as
391 amended by section 146 of public act 03-6 of the June 30 special
392 session, is repealed and the following is substituted in lieu thereof
393 (*Effective from passage*):

394 (f) The State Properties Review Board shall review real estate
395 acquisitions, real property sales and leases, subleases and any such
396 similar agreements proposed by the Commissioner of Public Works,
397 and the acquisition, other than by condemnation, or the sale or lease of
398 any property by the Commissioner of Transportation under
399 subdivision (12) of section 13b-4, as amended, subject to section 4b-23,
400 as amended by this act, and subsection (h) of section 13a-73. Such
401 review shall consider all aspects of the proposed actions, including
402 feasibility and method of acquisition and the prudence of the business
403 method proposed. The board shall also cooperate with and advise and
404 assist the Commissioner of Public Works and the Commissioner of
405 Transportation in carrying out their duties. The board shall have access
406 to all information, files and records, including financial records, of the

407 Commissioner of Public Works and the Commissioner of
408 Transportation, and shall, when necessary, be entitled to the use of
409 personnel employed by said commissioners. The board shall approve
410 or disapprove any acquisition of development rights of agricultural
411 land by the Commissioner of Agriculture and Consumer Protection
412 under section 22-26cc, as amended.

413 Sec. 14. Subsection (i) of section 4b-23 of the general statutes is
414 repealed and the following is substituted in lieu thereof (*Effective from*
415 *passage*):

416 (i) As used in this subsection, (1) "project" means any state program,
417 except the downtown Hartford higher education center project, as
418 defined in subsection (l) of section 4b-55, as amended, requiring
419 consultant services if (A) the cost of such services is estimated to
420 exceed fifty thousand dollars or, in the case of a constituent unit of the
421 state system of higher education, the cost of such services is estimated
422 to exceed three hundred thousand dollars, or (B) (i) the construction
423 costs in connection with such program are estimated to exceed five
424 hundred thousand dollars or, in the case of a constituent unit of the
425 state system of higher education, other than The University of
426 Connecticut, the construction costs in connection with such program
427 are estimated to exceed two million dollars, and (ii) the cost of a
428 consultant services contract for such program exceeds twenty
429 thousand dollars or the cost of an amendment to a consultant services
430 contract makes the total cost of the amendment, all previous
431 amendments to such contract and the contract exceed twenty thousand
432 dollars for the first time; (2) "consultant" means "consultant" as defined
433 in section 4b-55, as amended by this act; and (3) "consultant services"
434 means "consultant services" as defined in section 4b-55, as amended by
435 this act. In no instance shall the estimated costs of consultant services
436 or the estimated construction costs in connection with such program
437 be divided into units for the purpose of decreasing such estimated
438 costs. Any consultant selected by the commissioner, and any contracts
439 entered into by the commissioner with any consultants for
440 employment, on any project under the provisions of this section, shall

441 be subject to the approval of the State Properties Review Board prior to
442 the employment of said consultant or consultants by the
443 commissioner. The State Properties Review Board shall, within thirty
444 days, approve or disapprove the selection of or contract with any
445 consultant made by the Commissioner of Public Works pursuant to
446 sections 4b-1 and 4b-55 to 4b-59, inclusive, as amended by this act. If
447 upon the expiration of the thirty-day period a decision has not been
448 made, the State Properties Review Board shall be deemed to have
449 approved such selection or contract.

450 Sec. 15. Subsection (g) of section 4b-55 of the general statutes is
451 repealed and the following is substituted in lieu thereof (*Effective from*
452 *passage*):

453 (g) "Project" means any state program requiring consultant services
454 if (1) the cost of such services is estimated to exceed fifty thousand
455 dollars or, in the case of a constituent unit of the state system of higher
456 education, the cost of such services is estimated to exceed three
457 hundred thousand dollars, provided in no instance shall such
458 estimated consultant services costs be divided into units for the
459 purpose of decreasing such estimated consultant services costs, and (2)
460 the construction costs in connection with such program are estimated
461 to exceed five hundred thousand dollars; or, in the case of a constituent
462 unit of the state system of higher education, other than The University
463 of Connecticut, the construction costs in connection with such program
464 are estimated to exceed two million dollars, provided in no instance
465 shall such estimated construction costs be divided into units for the
466 purpose of decreasing such estimated construction costs.

467 Sec. 16. Section 4b-24 of the general statutes is repealed and the
468 following is substituted in lieu thereof (*Effective from passage*):

469 In acting as the determining authority in fulfilling the needs of the
470 various departments and agencies of state government, except the
471 Legislative Department, and choosing the method of acquisition which
472 shall be pursued in the open competitive market, the commissioner
473 shall:

474 (1) (A) Compile and maintain comprehensive and complete
475 inventories of all the improved and unimproved real estate available to
476 the state by virtue of ownership or lease. The actual mechanical
477 compilation of such inventories may be handled, at the request of the
478 commissioner, by the Secretary of the Office of Policy and
479 Management; provided such compilation shall be available to the
480 Commissioner of Public Works at all times. Such inventory shall be
481 used by the commissioner as the primary source for meeting state
482 needs, and shall be shared with the review board and with the
483 Secretary of the Office of Policy and Management; (B) prepare an
484 annual inventory of improved and unimproved real estate which is
485 owned by the state and which is unused or underutilized and study
486 and make recommendations concerning the reuse or disposition of
487 such real estate; (C) identify in the inventories required under
488 subparagraphs (A) and (B) of this subdivision, existing buildings that
489 (i) are of historic, architectural or cultural significance, including
490 buildings listed or eligible to be listed in the national register
491 established under the National Historic Preservation Act of 1966, 80
492 Stat. 915 (1966), 16 USC 470a and (ii) would be suitable, whether or not
493 in need of repair, alteration or addition, to meet the public building
494 needs of the state or to meet the needs of the public in accordance with
495 the provisions of subsection (m) of section 4b-23.

496 (2) Whenever realty uses designed uniquely for state use and for
497 periods over five years are concerned, the commissioner shall,
498 whenever practicable, attempt to purchase, lease-purchase or construct
499 on state-owned land. In such cases leases shall be used only when
500 other possibilities have been eliminated as not feasible, in the opinion
501 of the commissioner.

502 (3) Whenever the commissioner has established specific plans and
503 specifications for new construction on state land or new construction
504 for sale to the state: (A) If it appears to the commissioner that the cost
505 of the project shall be less than five hundred thousand dollars,
506 contracts shall be made, where practicable, through a process of sealed
507 bidding as provided in section 4b-91, as amended, relating to projects

508 in excess of five hundred thousand dollars; (B) if it appears to the
509 commissioner that the space needs of the requesting agency are less
510 than five thousand square feet, the commissioner shall, whenever
511 practicable, carry on advertising, in accordance with the provisions of
512 section 4b-34 relating to projects in excess of five thousand square feet,
513 in order to allow an equal opportunity for third parties to do business
514 with the state without regard to political affiliation, political
515 contributions or relationships with persons in state, federal or local
516 governmental positions.

517 (4) The commissioner may designate projects to be accomplished on
518 a total cost basis for (A) new facilities to provide for the substantial
519 space needs of a requesting agency, (B) the installation of mechanical
520 or electrical equipment systems in existing state facilities, or (C) the
521 demolition of any state facility that the commissioner is authorized to
522 demolish under the general statutes. If the commissioner designates a
523 project as a designated total cost basis project, the commissioner may
524 enter into a single contract with a private developer which may
525 include such project elements as site acquisition, architectural design
526 and construction. All contracts for such designated projects shall be
527 based on competitive proposals received by the commissioner, who
528 shall give notice of such project, and specifications for the project, by
529 advertising, at least once, in a newspaper having a substantial
530 circulation in the area in which such project is to be located. Such
531 advertising requirement may not be substituted by the posting of
532 requests for competitive proposals on the web site of the Department
533 of Public Works. The commissioner shall determine all other
534 requirements and conditions for such proposals and awards and shall
535 have sole responsibility for all other aspects of such contracts. Such
536 contracts shall state clearly the responsibilities of the developer to
537 deliver a completed and acceptable product on a date certain, the
538 maximum cost of the project and, as a separate item, the cost of site
539 acquisition, if applicable. No such contract may be entered into by the
540 commissioner without the prior approval of the State Properties
541 Review Board and unless funding has been authorized pursuant to the
542 general statutes or a public or special act.

543 (5) Whenever a bid is made to the commissioner for any purpose
544 regarding the use of land or whenever any person proposes to sell or
545 lease land to the state, the bidder or such person shall be the owner of
546 the land, or the commissioner shall have the option to void any
547 contract subsequently made with said bidder or third person.

548 (6) In all dealings with the commissioner the owner of record or
549 beneficial owner shall be disclosed to the commissioner and the bid
550 shall be revealed to the owner of record or beneficial owner or the
551 commissioner shall have the option to void any contract subsequently
552 made concerning any such dealing.

553 (7) After the authorization of a project under the provisions of
554 section 4b-23, as amended by this act, the public auditors of the state
555 and the auditors or accountants of the Commissioner of Public Works
556 shall have the right to audit the books of any contractor employed by
557 the commissioner pursuant to such authorization, or of any party
558 negotiating with the commissioner for the acquisition of land by lease
559 or otherwise; provided, however, that any such audit shall be limited
560 to the project authorized by the commissioner and the State Properties
561 Review Board, and provided further that in the case of a party
562 negotiating with the commissioner, such audit may also be conducted
563 after the negotiations have ended, if a contract is consummated with
564 the commissioner.

565 Sec. 17. Subdivision (4) of section 4b-24 of the general statutes, as
566 amended by section 9 of public act 03-215, is repealed and the
567 following is substituted in lieu thereof (*Effective October 1, 2004*):

568 (4) The commissioner may designate projects to be accomplished on
569 a total cost basis for (A) new facilities to provide for the substantial
570 space needs of a requesting agency, (B) the installation of mechanical
571 or electrical equipment systems in existing state facilities, or (C) the
572 demolition of any state facility that the commissioner is authorized to
573 demolish under the general statutes. If the commissioner designates a
574 project as a designated total cost basis project, the commissioner may
575 enter into a single contract with a private developer which may

576 include such project elements as site acquisition, architectural design
577 and construction. The commissioner shall select a private developer
578 from among the developers who are selected and recommended by the
579 award panels established in this subdivision. All contracts for such
580 designated projects shall be based on competitive proposals received
581 by the commissioner, who shall give notice of such project, and
582 specifications for the project, by advertising, at least once, in a
583 newspaper having a substantial circulation in the area in which such
584 project is to be located. Such advertising requirement may not be
585 substituted by the posting of requests for competitive proposals on the
586 web site of the Department of Public Works. No contract which
587 includes the construction, reconstruction, alteration, remodeling,
588 repair or demolition of any public building for work by the state for
589 which the total cost is estimated to be more than five hundred
590 thousand dollars may be awarded to a person who is not prequalified
591 for the work in accordance with section 3 of [this act] public act 03-215.
592 The commissioner shall determine all other requirements and
593 conditions for such proposals and awards and shall have sole
594 responsibility for all other aspects of such contracts. Such contracts
595 shall state clearly the responsibilities of the developer to deliver a
596 completed and acceptable product on a date certain, the maximum cost
597 of the project and, as a separate item, the cost of site acquisition, if
598 applicable. No such contract may be entered into by the commissioner
599 without the prior approval of the State Properties Review Board and
600 unless funding has been authorized pursuant to the general statutes or
601 a public or special act.

602 Sec. 18. Subsection (a) of section 4b-57 of the general statutes is
603 repealed and the following is substituted in lieu thereof (*Effective from*
604 *passage*):

605 (a) Whenever consultant services are required by the commissioner
606 in fulfilling his responsibilities under section 4b-1, as amended by this
607 act, and in the case of each project, the commissioner shall invite
608 responses from such firms by advertisements inserted at least once in
609 one or more newspapers having a circulation in each county in the

610 state. Such advertising requirement shall not be substituted by the
611 posting of a request for responses for such consultant services on the
612 web site of the Department of Public Works. The commissioner shall
613 prescribe, by regulations adopted in accordance with chapter 54, the
614 advance notice required for, the manner of submission, and conditions
615 and requirements of, such responses.

616 Sec. 19. Subsection (a) of section 4b-56 of the general statutes is
617 repealed and the following is substituted in lieu thereof (*Effective from*
618 *passage*):

619 (a) There shall be established within the Department of Public
620 Works a State Construction Services Selection Panel which shall consist
621 of five members. Four of such members shall be appointed by the
622 commissioner, shall be current or retired employees of the Department
623 of Public Works and shall serve for terms of one year from July first.
624 The remaining member shall be appointed by the head or acting head
625 of the user agency and shall serve only for deliberations involving the
626 project for which he was appointed. If any vacancy occurs on the
627 panel, the commissioner shall appoint a person for the unexpired term
628 in accordance with the provisions of this subsection. No member,
629 family member of a panel member, person in charge of overseeing
630 such panel or family member of a person overseeing such panel shall
631 have a beneficial interest in, or be an employee of, any bidding entity.

632 Sec. 20. Subsection (a) of section 4b-58 of the general statutes is
633 repealed and the following is substituted in lieu thereof (*Effective from*
634 *passage*):

635 (a) (1) Except in the case of a project, The University of Connecticut
636 library project, a priority higher education facility project, a project, as
637 defined in subdivision (16) of section 10a-109c, undertaken by The
638 University of Connecticut, a community court project, a correctional
639 facility project, a juvenile detention center project, the Connecticut
640 Juvenile Training School project, and the downtown Hartford higher
641 education center project, the commissioner shall negotiate a contract
642 for consultant services with the firm most qualified, in the

643 commissioner's judgment, at compensation which the commissioner
644 determines is both fair and reasonable to the state. (2) In the case of a
645 project, the commissioner shall negotiate a contract for such services
646 with the most qualified firm from among the list of firms submitted by
647 the panel at compensation which the commissioner determines in
648 writing to be fair and reasonable to the state. If the commissioner is
649 unable to conclude a contract with any of the firms recommended by
650 the panel, the commissioner shall, after issuing written findings of fact
651 documenting the reasons for such inability, negotiate with those firms
652 which the commissioner determines to be most qualified, at fair and
653 reasonable compensation, to render the particular consultant services
654 under consideration. (3) Whenever consultant services are required for
655 The University of Connecticut library project, a priority higher
656 education facility project, a community court project, a correctional
657 facility project, a juvenile detention center project, the Connecticut
658 Juvenile Training School project, or the downtown Hartford higher
659 education center project, the commissioner shall select and interview at
660 least three consultants or firms and shall negotiate a contract for
661 consultant services with the firm most qualified, in the commissioner's
662 judgment, at compensation which the commissioner determines is
663 both fair and reasonable to the state, except that if, in the opinion of the
664 commissioner, the Connecticut Juvenile Training School project needs
665 to be expedited in order to meet the needs of the Department of
666 Children and Families, the commissioner may waive such selection
667 requirement. Except for the downtown Hartford higher education
668 center project, the commissioner shall notify the State Properties
669 Review Board of the commissioner's action within five business days,
670 for its approval or disapproval in accordance with subsection (i) of
671 section 4b-23, as amended by this act, except that if, within fifteen days
672 of such notice, a decision has not been made, the board shall be
673 deemed to have approved such contract. The Connecticut Juvenile
674 Training School project shall be exempt from the State Properties
675 Review Board approval process. In no instance shall the commissioner
676 notify a consulting firm of its selection to provide such consulting
677 services or shall such firm begin to provide such services prior to the

678 board's review and approval of such firm as required under this
 679 subsection.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage</i>
Sec. 14	<i>from passage</i>
Sec. 15	<i>from passage</i>
Sec. 16	<i>from passage</i>
Sec. 17	<i>October 1, 2004</i>
Sec. 18	<i>from passage</i>
Sec. 19	<i>from passage</i>
Sec. 20	<i>from passage</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Prop. Review Bd.	GF - Cost	367,771	429,324
Various State Agencies	GF - Cost	Potential Significant	Potential Significant
Transportation, Dept.	FF - Revenue Loss	Potential Significant	Potential Significant
Pub. Works, Dept.	GF - Cost	Potential Significant	Potential Significant
Auditors	GF - Cost	97,800	95,600
Legislative Mgmt.	GF - Cost	Potential	Potential
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	72,780	221,078

Note: GF=General Fund; FF=Federal Fund

Municipal Impact: None

Explanation

State Properties Review Board: The table below summarizes the General Fund impact of expanding the responsibilities of the State Properties Review (SPRB) in FY 05 and FY 06. Additional information on these costs is provided in the "Detail" section below.

Estimated General Fund Impact on SPRB		
	FY 05 (partial year)	FY 06 (full year)
<u>Appropriated Account</u>		
Personal Services	\$266,830	\$386,902
Other Expenses ¹	90,237	40,922
Equipment	<u>10,704</u>	<u>1,500</u>
Total Cost	\$367,771	\$429,324

¹ Includes a one-time cost of \$50,000 to reconfigure SRPB's office space which could be paid for with General Obligation bond funds.

State Properties Review Board Detail

Workload Increase: SPRB's workload will increase from its current

average of 623 real estate proposals and consultant contracts per year to in excess of 1,400 proposals per year. The estimated increase in the number of proposals is based on a telephone survey of the 9 largest agencies (DPW, DMHAS, DCF, DOC, DAS, DOT, DMV, DRS and DPS) and the assumption that these agencies account for approximately 80% of all state contracts.

The scope of SPRB's oversight duties will be expanded to include approval or disapproval of all construction, privatization and procurement contracts with a value in excess of \$500,000 over the term of the contract. For each submittal, SPRB will look at: (1) cost effectiveness, (2) financial prudence, (3) legal sufficiency as to substance and form (the Attorney General's Office is currently responsible for this), and (4) vendor and contractor compliance with state law. The review must be performed within 30 days of receipt.

Personal Services Cost: The agency currently has an authorized position count of 5, of which 4 are filled (1 Executive Director, 1 Executive Secretary, 1 Fiscal Administrative Assistant, and 1 Secretary 1.) The agency also has a temporary employee who assists in the review of consultant contracts.

The table below summarizes the 8 positions the SPRB will need to handle the requirements imposed by the bill:

Personal Services Requirements for SPRB¹		
<u>Position</u>	<u>FY 05</u> Partial Year	<u>FY 06</u> Full Year
Assistant Attorney General 2	\$48,679	\$70,584
Contract Specialist General	39,687	57,546
Real Estate Examiner	37,823	54,843
Architectural Design Reviewer 2	34,926	50,643

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

Personal Services Requirements for SPRB¹		
Construction Specialist General	30,335	43,985
Paralegal Specialist 2	31,973	46,360
Secretary 1	23,348	33,855
Clerk Typist	20,059	29,086
Total Personal Services	\$266,830	\$386,902
Fringe benefits	\$53,980	\$177,278

Assistant Attorney General 2 and Paralegal Specialist 2: The agency currently has no legal staff to review legal sufficiency and form.

Contract Specialist General, Architectural Design Reviewer 2, and Construction Specialist General: These positions will need to be added because the agency does not currently have permanent staff with expertise in these areas. The Contract Specialist will review all procurement contracts, including the purchases of all materials, equipment, supplies and privatization contracts. The Architectural Design Reviewer 2 will review approximately 200 to 250 architectural and other professional consultant contracts per year. The Construction Specialist General will review all construction contracts and change orders submitted to the Board. DPW currently averages in excess of 35 major construction contracts per year and related change orders (the change order average over the last 6 years has been over 850 per year.)

Real Estate Examiner: SPRB's executive director is currently reviewing real estate proposals and this additional position is needed to handle the increased workload. It should be noted that sHB 5033, the budget as favorably reported by the Appropriations Committee, provides partial year funding for a Real Estate Examiner position that was eliminated in 2002.

Secretary 1 and Clerk Typist: These positions will be needed to handle the increased workload.

Other Expenses: The table below summarizes the Other Expenses costs to SPRB associated with the bill:

Other Expenses Requirements for SRPB		
<u>Item</u>	<u>FY 05⁹</u>	<u>FY 06</u>
Dues, Subscriptions, Telephone ¹	\$2,000	\$2,060
Equipment Maintenance & Repairs ¹	\$2,150	\$2,215
Board Member Fees ²	8,287	8,287
Mileage Reimbursement - Board members ³	12,800	13,180
Vehicle Rents ⁴	500	515
IT Hardware Maintenance & Support ⁵	8,000	8,000
IT Software ⁶	1,000	1,000
General Office Supplies ⁷	5,500	5,665
Reconfigure Existing Space ⁸	50,000	0
Total Other Expenses	\$90,237	\$40,922

¹ Based on historical cost per employee
² Assumes that the number of Board meetings will increase, so fee payments will reach the statutory cap of \$155,000
³ Based on historical experience for Board members
⁴ Based on historical cost adjusted for additional site inspections
⁵ Based on DoIT contract cost of \$1,000 per computer for 7 personal computers
⁶ From DoIT
⁷ Based on historical information for number of photocopier pages per employee
⁸ One-time cost which could be paid from General Obligation bond funds
⁹ Partial year cost

Equipment: The FY 04 equipment cost for SPRB is estimated be \$10,704 (8 personal computers with monitors at a cost of \$1,338 per system.) The FY 05 cost of \$1,500 is based on historical information about agency costs at the current staffing level.

Various State Agencies: The bill also establishes procedures that executive branch agencies and officials must follow before entering into a contract with a private entity to provide public services valued at \$500,000 or more. This has a potentially significant impact on several state agencies. The bill may also increase the cost of contracting out state service in the future, or increase the costs of contracting out such that the provision of services by state employees would be more cost effective.

This bill requires an agency to submit any proposed privatization contract, state construction or large procurement contract to the State Properties Review Board for the board's review and approval or disapproval.

There will be indeterminate costs of compliance to an agency contracting out services. To the extent that there are savings to be achieved from privatizing state services, there will be a delay and a potential decrease in the savings as a result of the administrative processes established by the bill. An agency is required to compare the costs and benefits, including quality of service provided, of privatizing services with not privatizing them. The agency must then report its cost-benefit analysis to the State Auditors. An agency must also provide notice and assistance to each applicable collective bargaining unit when soliciting bids for a privatization contract. These administrative requirements are anticipated to have a potentially significant impact, which may require additional resources, to any state agency that solicits bids for a privatization contract.

Department of Transportation: There is a potential impact on federal transportation funding because the provisions of the bill require that contracts over \$500,000 be submitted to SPRB for review. Since the majority of Department of Transportation (DOT) construction projects exceed this amount, SPRB would have to review them. If this review process significantly delays project start dates, this could result in the lapsing of unobligated federal transportation funds, which would then be returned to the federal government and could lead to the future loss of federal transportation funding.

Auditors of Public Accounts: The bill requires the Auditors of Public Accounts to review the analyses submitted by agencies and determine the cost effectiveness of privatizing, and requires the auditors to annually audit any approved privatization contract. Depending on the number of reviews and audits, the Auditors of Public Accounts may require two Auditor I positions with FY 05 costs of \$92,800, plus fringe benefits², and \$5,000 for equipment.

² The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state's pension contribution is based

Additionally, the Auditors will require indeterminate Other Expenses funding for potential costs associated with the retention of outside professional services on an as-needed basis.

Office of Legislative Management: The bill requires the committees of Government Administration and Elections and Appropriations to hold a joint public hearing on the privatization contracts valued over \$5 million within 25 of receipt of the contract by the General Assembly. The bill requires the joint committees to approve or disapprove it. It is anticipated that Legislative Management may incur increased costs to consider the contracts, such potential costs are contingent on the number of items under consideration and whether these items can be considered during the regular session or will necessitate a special session, which will further increase these potential costs.

upon the prior year's certification by the actuary for the State Employees Retirement System.

OLR Bill Analysis

sSB 392

AN ACT CONCERNING THE STATE CONTRACT REVIEW PROCESS**SUMMARY:**

This bill requires the State Properties Review Board (SPRB) to approve most state construction or purchasing contracts valued at \$500,000 or more and privatization contracts valued at over \$500,000. It establishes criteria for the approval.

It prohibits state agencies, other than UCONN and quasi-public agencies, from entering into privatization contracts unless they (1) conduct a cost-benefit analysis; (2) request information from bidders regarding employment, past or present proceedings or investigations involving employment or performance practices, and political contributions; (3) get SPRB's approval; and (4) if the contract will be worth at least \$5 million over its life, get the approval of the Government Administration and Elections (GAE) and Appropriations committees.

The bill makes the Department of Public Works commissioner responsible for subleasing and selling state agencies' office space. He is already responsible for purchasing and leasing it. The bill requires the SPRB to review sales, leases, subleases, and similar agreements the commissioner proposes.

By law, the SPRB must approve the (1) commissioner's consultant services contracts estimated at over \$50,000 and (2) contracts for construction projects estimated at over \$500,000 where the services needed are estimated at over \$50,000. The bill prohibits anyone from dividing the cost of services or construction into units to reduce the cost estimates. It also prohibits the commissioner from telling a consulting firm that it has been selected to provide the services before the board reviews and approves the contract.

The bill prohibits the commissioner from substituting advertisements

for bids on design-build construction projects or for consultants on the department's website for the newspaper advertisements the law requires.

Lastly, the bill prohibits State Construction Services Selection Panel members, the person responsible for overseeing the panel, or their family members from having a beneficial interest in, or working for, a bidder on a construction project. By law, this six-member panel awards state construction contracts.

EFFECTIVE DATE: Upon passage, except that the contracting provisions are effective October 1, 2004.

SPRB REVIEW AND APPROVAL OF STATE CONTRACTS

The bill requires state agencies, other than UCONN and quasi-public agencies, to submit construction, large procurement, and privatization contracts to the SPRB for review and approval. It covers contracts, valued at over \$500,000, to remodel, alter, or repair state assets; build, alter, improve, relocate, widen, or change the grade of sections of state highways or bridges; or purchase or lease supplies, materials, or equipment. It also covers contracts, valued at \$500,000 or more between a state agency and a nongovernmental person or entity for services similar to, or in lieu of, those currently performed by state employees. These contracts do not include those for legal services, litigation support, or management consulting.

Review

The bill requires the SPRB to review the construction and purchasing contracts (1) for legal sufficiency of substance and form, (2) to ensure that the contractor or vendor selection process complied with state law, and (3) for cost effectiveness and fiscal prudence. It eliminates a requirement for the attorney general to review these contracts for substance and form.

The bill requires the board to review privatization contracts for compliance with the bill's requirement for (1) a cost-benefit analysis, (2) bidders' employment and performance information and political contribution practices (see Below), and (3) the GAE Committee's approval if the value of the contract exceeds \$5 million.

The bill requires state agencies to give the board, upon demand, access to all information, files, records, and staff necessary to complete its review. When the board is reviewing privatization contracts, the bill specifically requires agencies to give it:

1. a certification that the agency complied with all of the bill's requirements;
2. the agency's cost benefit analysis, the auditors' analysis of it (see below), and the agency's explanation for any changes in the analysis or report resulting from the terms of the proposed contract;
3. the agency's analysis of the quality of the designated bidder's services and whether they are equal to or exceed the quality of services state employees provided;
4. the bidder's certification that neither he nor his supervisory employees, while in his employment, have an adjudicated record of repeated, willful noncompliance with any relevant federal or state regulatory laws including, those concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection, and conflicts of interest; and
5. a description of why the proposed privatization contract is in the public interest.

The bill requires agencies to keep this material in a way that will enable the board to use it. The board and its agents must comply with any confidentiality rules that prohibit disclosing the materials.

Contract Approval

The board has 30 days from the date of submittal to approve or disapprove with prejudice any contract. Its decision must be in writing and include the grounds for disapproval. A tie vote means the contract is disapproved. If the board does not act in the 30-day period, the contract is deemed approved.

SPRB Staffing

The bill allows the SPRB to hire an executive director, real estate appraiser, and an administrative assistant. It also allows the board, within available appropriations, to hire consultants, technical assistants, researchers, and other personnel as needed to help it review covered contracts. It requires the board to adopt regulations to implement this hiring and set out its contract review criteria.

PRIVATIZATION CONTRACTS

Cost-Benefit Analysis

Before soliciting bids for a privatization contract, the bill requires state agencies to analyze the costs and benefits to the agency of (1) privatizing services and (2) continuing to provide the services using its employees. It requires the analysis to examine: (1) direct and indirect costs to the state, including health insurance, pension costs, unemployment compensation costs resulting from the privatization, and gains or losses in state income or sales revenue and (2) the effect of the proposed privatization on the quality of services and the public health and safety of state residents who may use them.

When determining the cost of privatizing services, the bill requires the agency to calculate employees' labor costs at no less than the mid-range salary for their classification. The cost analysis must also show costs or penalties to the state for the contract's premature termination.

Each agency must submit its analysis to the state auditors, who must review it and determine the cost effectiveness of privatizing. It requires the auditors to audit annually any approved privatization contract.

Notice to Union Representatives

At least 60 days before soliciting bids for a privatization contract, the bill requires the state agency to notify the union representing the employees who will be affected by it. After consulting with the union, the agency must encourage and help the affected employees bid on the contract. It must look at existing or similar collective bargaining agreements for suggestions on how to help them. The bill requires the agency also to give the employees its cost-benefit analysis and the auditor's report. It must consider bids from state employees on the same basis as it considers others. It permits employees to bid as a joint

venture with others.

Bid Requirements

The bill requires state agencies soliciting bids for privatization contracts to direct each bidder to include in his bid:

1. the wage rate for each employee the contract covers;
2. his agreement to offer available employee positions to any qualified state employee who will lose his job because of the contract and who satisfies the bidder's hiring criteria;
3. his agreement to refrain from engaging in discriminatory employment practices and to take affirmative steps to be an equal opportunity employer;
4. without providing identifying information a report on how long, by job classification, his current employees have worked for him and their relevant work experience;
5. the minimum requirements for any positions that will be newly created;
6. employees' annual turnover rate;
7. the number of training hours planned for each employee in areas directly related to services provided in Connecticut;
8. any legal or administrative proceedings pending or concluded adversely against him or any of his principals or key personnel within the past five years that relate to the procurement or performance of any public or private construction contract, employee safety and health, labor relations, or other employment requirements and whether the applicant is aware of any investigation pending against him or any principal or key personnel;
9. for any such proceeding, the date of the complaint, citation, or court or administrative finding; the enforcement agency, rule, law or regulation involved; and any additional information he elects to submit;

10. any collective bargaining agreements or personnel policies covering the employees who will provide services to the state; and
11. any political contributions he or any of his managers made to a statewide elected official or legislator during the four years before the bid was due.

Terms Required in Privatization Contracts

The bill requires agencies to make privatization contracts acceptable to the bidder and the state agency. At a minimum, these contracts must:

1. require the contractor to give the agency quarterly payroll records listing the name, address, hours worked, and hourly wage paid for each employee working under the contract in the previous quarter;
2. require him to offer available jobs to qualified regular state employees who lost their job because of the contract and who satisfy the hiring criteria;
3. prohibit him from engaging in discriminatory employment practices and to take affirmative steps to offer all people an equal opportunity; and
4. require him to allow the state auditors to complete an annual performance audit.

GAE COMMITTEE'S APPROVAL OF PRIVATIZATION CONTRACTS

Within five days after the SPRB approves a privatization contract valued at over \$5 million, the bill requires the agency requesting it to file the contract with the House and Senate clerks. Not later than five days after they receive the contract, the House speaker and Senate president pro tempore must give it to the GAE and Appropriations committees. The committees must hold a joint hearing on the contract within 25 days after the House speaker and the Senate president pro tempore received it and then, by a majority vote, approve or disapprove it. A contract that is disapproved is not valid and cannot be implemented

BACKGROUND***Related Bill***

SHB 5025, also favorably reported by the GAE Committee on March 19, prohibits the SPRB from approving contracts unless it receives affidavits regarding whether gifts were given to the state officials or employees involved in soliciting or awarding the contracts.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 10 Nay 7